

1 DURIE TANGRI LLP  
2 JOSEPH C. GRATZ (SBN 240676)  
jgratz@durietangri.com  
2 ADITYA V. KAMDAR (SBN 324567)  
3 akamdar@durietangri.com  
SAMUEL J. ZEITLIN (SBN 327369)  
4 szeitlin@durietangri.com  
217 Leidesdorff Street  
5 San Francisco, CA 94111  
Telephone: 415-362-6666  
6 Facsimile: 415-236-6300

7 Attorneys for Non-Party  
8 AMAZON WEB SERVICES, INC.

9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 OAKLAND DIVISION

12 ELASTICSEARCH, INC., a Delaware  
corporation, and ELASTICSEARCH B.V., a  
13 Dutch corporation,

14 Plaintiffs,

15 v.

16 FLORAGUNN GmbH, a German corporation,

17 Defendant.

18 CONSOLIDATED CASE  
Case No. 4:19-cv-05553-YGR

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**DECLARATION OF JOSEPH C. GRATZ  
PURSUANT TO LOCAL RULE 79-5(E)(1)  
AND IN FURTHER SUPPORT OF  
FLORAGUNN GMBH'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL**

1 I, Joseph C. Gratz, hereby declare as follows:

2 1. I am a partner with the law firm Durie Tangri LLP, and I am one of the attorneys  
3 representing non-party Amazon Web Services, Inc. (“AWS”) in the above-captioned matter. I make this  
4 declaration from personal knowledge, and if called to testify, I could and would testify competently  
5 thereto.

6 2. On September 7, 2021, I filed a declaration (ECF No. 158) in support of floragunn  
7 GmbH’s (“floragunn”) administrative motion to seal (ECF No. 153). Attached to that declaration as  
8 Exhibit A was a declaration by Carl Meadows, Senior Manager for Product Management for Amazon  
9 Elasticsearch Service at AWS, submitted pursuant to Local Rule 79-5(e)(1) in support of floragunn’s  
10 administrative motion to file documents under seal (“Meadows Declaration”).

11 3. On September 21, 2021, floragunn filed an administrative motion to seal (ECF No. 191).  
12 In the motion and the attached declaration, floragunn specified filings that contain highly confidential  
13 AWS information. I understand AWS information is limited to the following:

14 a. Defendant’s Reply in Support of Motion to Exclude Portions of Testimony of  
15 Plaintiffs’ Expert Matthew Lynde  
16 i. **Page 1, lines 3–4**  
17 ii. **Page 6, lines 16–17**  
18 iii. **Page 6, line 28**  
19 iv. **Page 7, line 7 and footnote 1**  
20 v. **Page 9, lines 22 and 23**

21 4. I understand that information contained in these items to be taken from or derived from  
22 the same highly confidential, sensitive, and proprietary AWS business information described in the  
23 Meadows Declaration. For the same reasons described in that declaration, a true and correct copy of  
24 which is reattached here as **Exhibit A**, the AWS information specified above should be sealed.

25 I declare under penalty of perjury under the laws of the United States of America that the  
26 foregoing is true and correct. Executed this 27th day of September, 2021, at San Francisco, California.

27 \_\_\_\_\_ */s/ Joseph C. Gratz*  
28 JOSEPH C. GRATZ

# **EXHIBIT A**

1 DURIE TANGRI LLP  
2 JOSEPH C. GRATZ (SBN 240676)  
jgratz@durietangri.com  
3 ADITYA V. KAMDAR (SBN 324567)  
akamdar@durietangri.com  
4 SAMUEL J. ZEITLIN (SBN 327369)  
szeitlin@durietangri.com  
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18 CONSOLIDATED CASE  
Case No. 4:19-cv-05553-YGR

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**DECLARATION OF CARL MEADOWS  
PURSUANT TO LOCAL RULE 79-5(e)(1) AND  
IN SUPPORT OF FLORAGUNN GMBH'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL**

1 I, Carl Meadows, hereby declare as follows:

2 1. I am a Senior Manager for Product Management for Amazon Elasticsearch Service  
3 (“AESS”) at Amazon Web Services, Inc. (“AWS”), where I have worked since September 2015. I make  
4 this declaration based on my own personal knowledge. If called as a witness, I could and would testify  
5 under oath to the matters set forth herein.

6 2. I make this declaration pursuant to Northern District of California Civil Local Rule 79-  
7 5(e)(1) and in support of floragunn GmbH’s (“floragunn”) administrative motion to file documents under  
8 seal (“Motion to Seal”), filed August 31, 2021, associated with floragunn’s Motion to Exclude Portions  
9 of Testimony of Plaintiffs’ Expert Matthew Lynde (“Motion to Exclude”), also filed August 31, 2021.

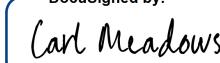
10 3. I make this declaration in support of sealing portions of the Motion to Exclude, as well as  
11 the entirety of an attached document, that, to the best of my knowledge, contain highly confidential,  
12 proprietary, and sensitive competitive business information produced by AWS pursuant to a third-party  
13 subpoena in this matter. The disclosure of this information would likely cause substantial harm to the  
14 competitive position of AWS. For this reason, the information at issue was designated “Highly  
15 Confidential – Attorney’s Eyes Only” pursuant to the operative protective order in this case.

16 4. On Lines 7–11 of Page 6 of the Motion to Exclude, floragunn refers to highly  
17 confidential, proprietary, and sensitive competitive business information that I included in a declaration I  
18 made in response to a third-party subpoena issued by Plaintiffs in this matter, as well as to expert  
19 conclusions made using that information. The declaration was designated “Highly Confidential –  
20 Attorney’s Eyes Only” pursuant to the operative protective order in this case. AWS takes strict measures  
21 to protect the type of information revealed in these lines, which includes internal data about Amazon  
22 Elasticsearch Service (“AESS”), and, in my experience, AWS does not disclose this information outside  
23 the company. If revealed to competitors, they could use this non-public and confidential information to  
24 disadvantage AWS. Further, any expert analysis of AWS data, whether correct or not, has the potential  
25 to reveal the underlying highly confidential, proprietary, and sensitive business information. For these  
26 reasons, Lines 7–11 of Page 6 of the Motion to Exclude should be sealed.

27 5. Exhibit I of the Rivkin Declaration, attached to the Motion to Exclude (“Corrected  
28 Declaration of Carl Meadows, dated July 9, 2021”), is the entire, above-referenced declaration I made in

1 response to Plaintiffs' third-party subpoena in this matter. The declaration was designated "Highly  
2 Confidential – Attorney's Eyes Only" pursuant to the operative protective order in this case. The  
3 declaration contains confidential information about AWS's internal procedures, policies, and practices  
4 underlying its services and software projects; highly confidential statistical data about AESS software  
5 releases and AESS usage over time; and internal statistics kept by AWS regarding the open-source  
6 project known, as of the relevant time, by the name Open Distro for Elasticsearch. AWS takes strict  
7 measures to protect the type of information revealed in this declaration and, in my experience, AWS does  
8 not disclose this information outside the company. If revealed to competitors, they could use this non-  
9 public and confidential information to disadvantage AWS—not only by gaining access to proprietary  
10 data, but also by gaining insight into AWS's internal decision-making practices. For these reasons,  
11 Exhibit I of the Rivkin Declaration, attached to the Motion to Exclude, should be sealed.

12 I declare under penalty of perjury under the laws of the United States of America that the  
13 foregoing is true and correct. Executed this 3rd day of September, 2021, at Seattle, Washington.

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CARL MEADOWS  
72990245DE56169

**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2021 the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing to the attorneys of record in this case.

/s/ Joseph C. Gratz  
JOSEPH C. GRATZ